

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
CASE NUMBER: ~~14-cv-00000~~**

Neil Caesar and Courtney Kyle,

Plaintiffs,

v.

Walgreens Pharmacy #1252, Walgreen Co.,

d/b/a Walgreens Pharmacy #1252,

Defendant.

6:14cv4260-HMH

NOTICE OF REMOVAL

JURY TRIAL DEMANDED

COMES NOW Walgreen Co., d/b/a Walgreens Pharmacy (“Walgreens”), Defendant in the above-captioned matter, by and through counsel, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

YOU ARE HEREBY notified that Walgreens, Defendant in the case styled **Neil Caesar and Courtney Kyle v. Walgreen Co., d/b/a Walgreens Pharmacy**, Court of Common Pleas, State of South Carolina, County of Greenville, denominated as Docket No. **2014-CP-23-05437**, appearing specially and without waiving formal service of process or subjecting to the jurisdiction of this Court, pursuant to 28 U.S.C. § 1332, 1441 and 1446, and Federal Rule of Civil Procedure 11, timely files this Notice of Removal together with a filing fee and a copy of process and pleadings served upon said Defendant in said case.

1.

The above-named Plaintiffs filed suit against Defendant in the Court of Common Pleas, Greenville County, State of South Carolina, which is within the Division of this Court. 28 U.S.C. § 121(6). Said lawsuit is styled as above and is numbered as Docket No. **2014-CP-23-005437**. Plaintiffs’ claims against Defendant include claims of pharmacy malpractice and negligence and seeks actual damages, emotional distress damages, and punitive damages.

2.

Plaintiffs filed their Complaint on or about September 30, 2014. Walgreens received service of summons and a copy of the Complaint on or about October 6, 2014. Walgreens files this Notice of Removal within thirty (30) days after service of summons and a copy of this Complaint by this Defendant.

3.

Plaintiffs allege they are citizens of the State of South Carolina. (Exhibit “A”, Plaintiffs’ Compl. at ¶¶ 1).

4.

At the time of the filing of the Complaint, Walgreens was a foreign corporation with its principal place of business in Deerfield, Illinois. (Plaintiff’s Compl. ¶ 3) (Exhibit “B”, Secretary of State Business Filings Record for Walgreen Co. printed October 23, 2014). Defendant Walgreens was not a citizen of the State of South Carolina at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter. Walgreens Store #1252 is not separately organized or incorporated and is not an independent, cognizable legal entity.

5.

Complete diversity of citizenship exists between Plaintiffs and Defendant.

6.

In their Complaint, Plaintiffs allege they suffered injuries as a result of Defendant’s alleged liability. Plaintiffs allege they have incurred actual, special, and consequential damages, and seek punitive damages and attorneys’ fees and allege that they experienced “extensive pain, mental anguish and discomfort” as well as “emotional loss and costs for caring for a child born with a genetic mutation.” (Plaintiffs’ Compl. at ¶¶ 22-23, 25-26, 30-32, 40-41 *ad damnum* and

the paragraph, beginning with “WHEREFORE”). Therefore, based on the allegations in the Complaint, Walgreens reasonably believes the amount in controversy more likely than not exceeds \$75,000.00, exclusive of interest and costs.

7.

This action is removable pursuant to 28 U.S.C. §§ 1332 and 1441, based on complete diversity of citizenship between Plaintiffs and Defendant.

8.

This petition is filed within 30 days after receipt by Walgreens through service or otherwise of the Complaint, setting forth the claim for relief upon which that action is based in said Civil Action, and is sought to be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441, et. seq.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Walgreens has attached as Exhibit “A” copies of all pleadings that were provided to and served upon them, including copies of all pleadings that have been filed to date in the Court of Common Pleas, County of Greenville, State of South Carolina for the above-styled case and attached as Exhibit “C” the Notice of Intent to Sue, filed in the Court of Common Pleas prior to the filing of the subject Complaint.

10.

Walgreens files and presents \$400.00 to pay all costs and disbursements incurred by reason of these removal proceedings should it be determined that this case was not removable or was improperly removed.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the Court of Common Pleas, County of Greenville, State of South Carolina, as required by U.S.C. § 1446.

WHEREFORE, Walgreen Co., d/b/a Walgreens Pharmacy #1252 prays that this Notice be filed, that the entire action referred to herein above be removed to and proceed in the United States District Court, District of South Carolina, and no further proceedings be held in said case in the Court of Common Pleas, County of Greenville, State of South Carolina, and that Walgreens has such other and further relief as the Court deems just and proper in the circumstances.

Respectfully submitted this 31st day of October, 2014.

MURPHY & GRANTLAND, P.A.

s/E. Raymond Moore, III

E. Raymond Moore, III

Fed I.D. #6797

Post Office Box 6648

Columbia, South Carolina 29260

(803) 782-4100

(803) 782-4140 (facsimile)

ermoore@murphygrantland.com

*Attorneys for Walgreen Co., d/b/a Walgreens
Pharmacy #1252*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION
CASE NUMBER: 14av99999**

Neil Caesar and Courtney Kyle,

Plaintiffs,

v.

Walgreens Pharmacy #1252, Walgreen Co.,
d/b/a Walgreens Pharmacy #1252,

Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of October, 2014, I have served a copy of the foregoing

NOTICE OF REMOVAL in connection with the above-referenced case via PACER/ECF:

Joseph A. Mooneyham, Esquire
Mooneyham Berry & Karow, LLC
P.O. Box 8359
1225 South Church Street
Greenville, SC 29604

s/E. Raymond Moore, III

E. Raymond Moore, III, Esquire